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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,710	10/24/2003	Dennis Arthur Fielder	14495CON	6795

293 7590 06/02/2004

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EXAMINER

LOUIS JACQUES, JACQUES H

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,710

Applicant(s)

FIELDER, DENNIS ARTHUR

Examiner

Jacques H Louis-Jacques

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-15 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9-11,16 and 18 is/are rejected.
- 7) ☒ Claim(s) 2,6-8,17 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,681,181. Although the conflicting claims are not identical, they are not patentably distinct from each other because the mere fact that the claimed limitations of the claims of the '181 patent are recited in different claims in the copending applications (e.g., claims 1 and 2 of the present application correspond to claim 1 of the '181 patent) does not make the claims of present application patentably distinct over the claims of the '181 patent. In fact, it would have been obvious to one skilled in the art at the time of the invention to omit the step of "coupling" (substituting) of the '181 patent because such step is not required (i.e. critical) to carry out the method of operating the radio receiver of the present application.

Claim Rejections - 35 USC § 102

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 3-5, 10-11, 16, 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Calixte [6,400,934].

Calixte discloses a method for radio receiver input off-channel and on-channel overload protection. According to Calixte, there is provided sensing an overload condition in the radio receiver front-end when a received radio signal is above a threshold; and generating an overload signal in response to sensing the overload condition. See abstract, columns 2 and 3.

5. Claims 1, 3-5, 10-11, 16, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Meador et al [5,953,640].

Meador et al discloses a configuration single chip receiver integrated circuit architecture. According to Meador et al, there is provided a radio receiver front-end for receiving radio signals, the radio receiver front-end comprising: an overload detector for generating an overload signal when a received radio signal is above a threshold; and an output port connectable to a radio receiver back-end, the output port used for coupling the overload signal to the radio receiver back-end. See figure 2 and columns 5 and 8-9

6. Claims 1, 3-5, 10-11, 16, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lynk, Jr. et al [4,761,829].

Lynk, Jr. et al discloses an adaptive signal strength and/or ambient noise driven audio shaping system. According to Lynk, Jr. et al, there is provided sensing (detector) an overload condition in the radio receiver front-end when a received radio signal is above a threshold (using a comparator); and generating (generator) an overload signal in response to sensing the overload condition. See figure 1, columns 3 and 4. Lynk, Jr. et al, as further described in column 3, discloses that the radio receiver front-end is adapted to down-convert the received radio signal from a Radio Frequency (RF) to an Intermediate Frequency (IF), wherein the received radio signal is combined with a locally generated RF signal within a mixer to produce a down-converted copy of the received radio signal.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lynk, Jr. et al in view of Johnson [5,420,592].

While Lynk, Jr. et al discloses a receiver front end (20) that receives signal from an antenna (10), Lynk, Jr. et al does not particular disclose that the receiver front end is integrated into a GPS receiver. Johnson, on the other hand, discloses a radio receiver front-end of integrated into a GPS (Global Positioning System) receiver (figure 1). Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the system of Lynk, J. et al by incorporating the GPS receiver with the front end from the system of Johnson because such modification, as suggested by Johnson, would improve the level of accuracy of such system.

Allowable Subject Matter

9. Claims 2, 6-8, 17, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 12-15 are allowed.

The prior does not particular teach substituting the bit-stream of digital data with a locally generated bit pattern in response to receiving the overload signal, the locally generated bit pattern being selected such that when processed it causes less noise to accumulate in the radio receiver back-end than if the bit-stream of digital data were processed, and substituting the bit-stream of digital data with a locally generated bit pattern comprises a

data modifier having a data input connected to receive the output of the analog-to-digital converter and the data modifier having a control input connected to receive the overload signal from the input port, the data modifier generating and substituting the locally generated bit pattern for the bit-stream of digital data that is input to the correlator when the overload signal is a value that indicates an overload condition.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,649,538	DeLuca et al	Mar. 1987
5,355,524	Higgins et al	Oct. 1994
5,451,948	Jekel	Sep. 1995
6,104,978	Harrison et al	Aug. 2000
6,498,819	Martin	Dec. 2002
US20030181178	Zerod et al	Sep. 2003

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H Louis-Jacques whose telephone number is 703-305-9757. The examiner can normally be reached on M-Th 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacques H Louis-Jacques
Primary Examiner
Art Unit 3661

/jlj

Jacques H. Louis-Jacques
JACQUES H. LOUIS-JACQUES
PRIMARY EXAMINER